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PLEASE NOTE OUR ^{NEW} NEW YORK ADDRESS

November 15, 2022

Via E- Filing

Judge Lorna G. Schofield
United States District Court, Southern District of New York
Thurgood Marshall, United States Courthouse
40 Foley Square
New York, NY 10007

Re: Hye, Patrick v. The United States of America
Docket No. 1:21-cv-06304
Our File No.: 21-001199

Dear Judge Schofield:

I represent the Plaintiff, Patrick Hye, in the aforementioned matter. I have conferred with my adversaries, counsel for Defendant USA and Defendant Tanweer, and submit this letter with their consent.

On November 7, 2022, I filed a letter motion requesting an extension of the fact discovery deadline which the Court denied without prejudice. The Court directed as follows:

“By November 15, 2022, the parties may file a renewed application to extend discovery. Such letter shall state firm dates, agreeable to all counsel and the witness, on which each of the remaining depositions shall be taken, if discovery is extended. Plaintiff’s counsel shall also state whether the referenced physicians are fact witnesses, and if so, why their depositions were not scheduled with a view to meeting the November 15, fact discovery deadline.” [Document Number 60]

At this time, I am filing the instant letter motion to renew Plaintiff’s request for an extension of the fact discovery deadline.

In a letter to the Court dated May 31, 2022, [Document 46] I advised the Court and Defendants’ counsel that it was Plaintiff’s intention to take the depositions of the following fact witnesses:

- James L. Stone MD
- Peter Rozman MD
- Alexander Beric MD and
- Omar Tanweer MD

Dr. James Stone was the neurosurgeon at the Manhattan VA who recommended to the

Plaintiff that he undergo spinal surgery. Dr. Peter Rozman was the resident physician who performed the procedure along with attending surgeon, Defendant Omar Tanweer. Dr. Alexander Beric was the neurophysiologist who interpreted intra operative nerve monitoring. Drs. Stone, Rozman and Beric are represented by Defendant USA. Defendant Omar Tanweer was not employed by the Defendant USA and is thus represented by the firm of Heidell Pittoni Murphy and Bach.

The Plaintiff, Patrick Hye was deposed on September 13, 2022 but could not complete his deposition because of rising pain levels and the need to take medication which would impede his ability to testify. The deposition was completed upon the agreement of all parties on September 28, 2022.

The Plaintiff's daughter, Karen Hye, took place on November 7, 2022. Ms. Hye could not be produced earlier as Ms. Hye was in the process of moving from the West Coast back to New Jersey and was unavailable for deposition in October. We produced her as soon as she was settled in New Jersey and available.

While we were conducting the depositions of the Plaintiff and his daughter, I was operating under the mistaken impression that when those depositions were over we would move forward with the Defendants' depositions and that we would work together to get the dates scheduled.

I apologize to the Court as I was not in any way attempting to defy Your Honor's Order. Rather, it was my wrongful impression that Defense Counsel would want to complete the deposition of the Plaintiff and his daughter before scheduling their clients' depositions. That is normally how medical malpractice cases proceed in State Court and I should not have operated under that mistaken assumption but rather should have clearly communicated with defense counsel about scheduling firm deposition dates for the physician fact witnesses.

Furthermore, the above was ongoing while I was conducting depositions and discovery in numerous other cases, as well as preparing for a trial that was to commence on November 14, 2022, which was ultimately adjourned due to defense counsel's engagement in another matter. This was all happening in the backdrop of my having to take my 80 year old mother to the emergency room on two occasions since Labor Day, including for a fall down the stairs resulting in a head injury, as well as to multiple follow-up physician and diagnostic appointments. I mention this not to seek sympathy but only for the purpose of explaining why I have been preoccupied with other matters. While I do my best to keep up with my obligations, it is not always possible due to exigent circumstances.

The parties have conferred and have agreed to the following firm dates for the remaining depositions:

| | | |
|--------------------------------|---|--|
| December 12, 2022 at 10: 00 am | - | Dr. Alexander Beric |
| Defendant 13, 2022 at 02:00 pm | - | Suzanne Hye (former spouse of Plaintiff) |
| December 14, 2022 at 02:00 pm | - | Dr. James Stone |
| December 27, 2022 at 10:00 am | - | Dr. Peter Rozman |
| January 13, 2023 at 10:00 am | - | Defendant Omar Tanweer, MD |

I wish to note that I have accepted all dates provided by defense counsel for the above depositions even if that meant rescheduling depositions in other cases. Further, it is my understanding that Dr. Tanweer resides out of state and will be travelling to his attorneys' office for the deposition and that is why his deposition cannot be completed earlier than January 13, 2023, the date offered by his attorney which I readily agreed to.

I respectfully request that the Court extend the fact discovery deadline until January 13, 2023 such that the depositions as set forth above, can be completed. If we were unable to conduct the depositions of the defendants, the Plaintiff Patrick Hye would suffer great prejudice. If Your Honor extends the fact discovery deadline until January 13, 2023 we shall have all depositions completed by then in accordance with the schedule set forth above.

Thank you for your attention to this matter.

Respectfully yours,



Christina Ctorides

CC/ka

cc: David Farber, Esq. (Via ECF)
Rachel Bloom, Esq. (Via ECF)

Application GRANTED. The deadline to complete fact discovery is extended for the limited purpose of conducting depositions of the witnesses described in Plaintiff's letter. The depositions shall take place on the following schedule:

December 12, 2022 - Dr. Alexander Beric
December 13, 2022 - Suzanne Hye
December 14, 2022 - Dr. James Stone
December 27, 2022 - Dr. Peter Rozman
January 13, 2023 - Dr. Omar Tanweer

These dates may not be changed without judicial approval. No further extensions of the fact discovery schedule will be granted. A Fourth Amended Case Management Plan and Scheduling Order will issue separately. Following the completion of the depositions listed, the parties shall complete expert discovery diligently. So Ordered.

Dated: November 16, 2022
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE